

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	Criminal Action No.
)	1:12-CR-181-TWT
CHARLIE SHIVERS, III,)	
Defendant.)	

DEFENDANT’S MOTION FOR RELEASE PENDING SENTENCING.

COMES NOW THE DEFENDANT, CHARLIE SHIVERS III, by his undersigned counsel, to move this Court for release pending sentencing. In support, he shows the following:

Mr. Shivers plead guilty to two counts of submitting false claims (18 U.S.C. §287 and 2) before this Court pursuant to a plea agreement. He has been in custody since his arrest, although he does not have a serious criminal record, and has spent most of his life in the Atlanta area. Prior to counsel’s appointment, he was detained by order of the United States Magistrate Judge Baverman, due to the belief that Mr. Shivers would not appear in court as directed. Due to his guilty plea, his prior cooperation, his family ties to the area and his self-interest, Mr. Shivers is a candidate for release pending sentence.

Ties to the Community

Mr. Shivers attended Atlanta Public Schools and college at Hampton University in Virginia. His parents, Jonathan and Sylvia Rosser, have been in greater Atlanta most of their lives, and are willing to both make their home available to Charlie pending sentencing, and to take all necessary steps to ensure that Mr. Shivers appear in court for sentencing and for any other necessary proceedings. Because they do not own property, they are willing to have their telephone outfitted for electronic monitoring as a condition of Mr. Shivers' bail obligation. Upon information and belief, his passport has been turned in to the government.

Danger To The Community

As stated earlier, Mr. Shivers' does not have a serious criminal record. According to the evidence provided by the government shows that in the 1990s, Mr. Shivers had several traffic-related arrests. In 2011, Mr. Shivers was convicted of Driving Under the Influence and placed on probation.¹ Thus, Mr. Shivers' prior record does not pose a threat to the community should he be released.

Moreover, Mr. Shivers' plea agreement provides a strong motivation for him to appear in court, and appear at meetings with the government due to the cooperation provisions contained therein. He also provided a post-arrest statement

¹ Mr. Shivers was arrested for a felony in Rockdale County in 2004; that case was nolle prossed and expunged.

through prior counsel. Thus, not only is there no danger to the community, there are strong ties to the community that favor allowing Mr. Shivers to be released pending sentencing.

18 U.S.C. §3143(a) provides that Mr. Shivers shall be released should this Court find by clear and convincing evidence that he is neither a threat to the community and not likely to flee. Mr. Shivers' requests that the Court conduct a hearing on these issues and grant his motion.

This 4th day of September, 2012.

Respectfully Submitted,

/R. Gary Spencer

R. GARY SPENCER

ATTORNEY FOR THE DEFENDANT

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed with this Court's Electronic Court Filing system this 4th day of September, 2012.

/R. Gary Spencer